

## SUBCOMMITTEE: COMMERCE AGRICULTURE &amp; NATURAL RESOURCES

SENATE BILL NO. 576

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on/for \_\_\_\_\_)

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Howell)

A BILL to amend and reenact §§ 2.2-204, 2.2-225, 2.2-3705.6, 2.2-3705.7, 2.2-3711, and 23.1-203, of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 22 of Title 2.2 an article numbered 11, consisting of sections numbered 2.2-2351 through 2.2-2364; and to repeal Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2, Article 8 (§§ 23.1-3130 through 23.1-3134) of Chapter 31 of Title 23.1, and § 51.1-124.38 of the Code of Virginia, relating to research and development in the Commonwealth.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-204, 2.2-225, 2.2-3705.6, 2.2-3705.7, 2.2-3711, and 23.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 22 of Title 2.2 an article numbered 11, consisting of sections numbered 2.2-2351 through 2.2-2364, as follows:**

**§ 2.2-204. Position established; agencies for which responsible; additional duties.**

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Virginia Innovation Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

**§ 2.2-225. Position established; agencies for which responsible; additional powers.**

The position of Secretary of Technology (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies, councils, and boards: Information Technology Advisory Council, ~~Innovation and Entrepreneurship Investment Authority~~, Virginia Information Technologies Agency, Virginia Geographic Information Network Advisory Board, and the 9-1-1 Services Board. The Governor, by executive order, may assign any other state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

Unless the Governor expressly reserves such power to himself, the Secretary may, with regard to strategy development, planning and budgeting for technology programs in the Commonwealth:

1. Monitor trends and advances in fundamental technologies of interest and importance to the economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy development process that results in a comprehensive and coordinated view of research and development goals for industry, academia and government in the Commonwealth. This strategy shall be updated biennially and submitted to the Governor, the Speaker of the House of Delegates and the President Pro Tempore of the Senate.

2. Work closely with the appropriate federal research and development agencies and program managers to maximize the participation of Commonwealth industries and baccalaureate institutions of higher education in these programs consistent with agreed strategy goals.

3. Direct the development of plans and programs for strengthening the technology resources of the Commonwealth's high technology industry sectors and for assisting in the strengthening and development of the Commonwealth's Regional Technology Councils.

4. Direct the development of plans and programs for improving access to capital for technology-based entrepreneurs.

5. Assist the Joint Commission on Technology and Science created pursuant to § 30-85 in its efforts to stimulate, encourage, and promote the development of technology in the Commonwealth.

6. Continuously monitor and analyze the technology investments and strategic initiatives of other states to ensure the Commonwealth remains competitive.

7. Strengthen interstate and international partnerships and relationships in the public and private sectors to bolster the Commonwealth's reputation as a global technology center.

8. Develop and implement strategies to accelerate and expand the commercialization of intellectual property created within the Commonwealth.

9. Ensure the Commonwealth remains competitive in cultivating and expanding growth industries, including life sciences, advanced materials and nanotechnology, biotechnology, and aerospace.

10. Monitor the trends in the availability and deployment of and access to broadband communications services, which include, but are not limited to, competitively priced, high-speed data services and Internet access services of general application, throughout the Commonwealth and advancements in communications technology for deployment potential. The Secretary shall report annually by December 1 to the Governor and General Assembly on those trends.

11. Designate specific projects as enterprise information technology projects, prioritize the implementation of enterprise information technology projects, and establish enterprise oversight committees to provide ongoing oversight for enterprise information technology projects. At the discretion of the Governor, the Secretary shall designate a state agency or public institution of higher education as the business sponsor responsible for implementing an enterprise information technology project, and shall define the responsibilities of lead agencies that implement enterprise information technology projects. For purposes of this subdivision, "enterprise" means an organization with common or unifying business interests. An enterprise may be defined at the Commonwealth level or Secretariat level for programs and project integration within the Commonwealth, Secretariats, or multiple agencies.

12. Establish Internal Agency Oversight Committees and Secretariat Oversight Committees as necessary and in accordance with § 2.2-2021.

13. Review and approve the Commonwealth strategic plan for information technology, as developed and recommended by the Chief Information Officer pursuant to subdivision A 3 of § 2.2-2007.1.

14. Communicate regularly with the Governor and other Secretaries regarding issues related to the provision of information technology services in the Commonwealth, statewide technology initiatives, and investments and other efforts needed to achieve the Commonwealth's information technology strategic goals.

~~15. Provide consultation on guidelines, at the recommendation of the Innovation and Entrepreneurship Investment Authority, for the application, review, and award of funds from the Commonwealth Research Commercialization Fund pursuant to § 2.2-2233.1.~~

Article 11.

Commonwealth of Virginia Innovation Partnership Act.

**§ 2.2-2351. Short title; declaration of public purpose.**

A. This article shall be known and may be cited as the Commonwealth of Virginia Innovation Partnership Act.

B. It is found and determined by the General Assembly that there exists in the Commonwealth a need to support the life cycle of innovation, from translational research; to entrepreneurship; to pre-seed and seed stage funding; and to acceleration, growth, and commercialization, resulting in the creation of new jobs and company formation. A collaborative, consistent, and consolidated approach will assist the Commonwealth in identifying its entrepreneurial strengths, including the identification of talents and resources that make the Commonwealth a unique place to grow and attract technology-based businesses. It is also found and determined by the General Assembly that there exists in the Commonwealth of Virginia a need to (i) promote the technology-based economic development of the Commonwealth by building, attracting, and retaining innovation and high-technology jobs and businesses in Virginia; (ii) increase industry competitiveness by supporting the application of innovative technologies that improve productivity and efficiency; (iii) attract and provide additional private and public funding in the Commonwealth to enhance and expand the scientific and technological research and commercialization at state and federal research institutions and facilities, including by supporting and working with technology transfer offices to advance research from proof-of-concept to commercialization resulting in new business and job creation; (iv) attract and provide additional private and public funding to support

and enhance innovation-led entrepreneurship ecosystems and coordination of existing activities and programs throughout the Commonwealth to create new job opportunities and diversify the economy; (v) ensure promotion and marketing of Virginia's statewide innovation economy and support and coordinate regional marketing efforts to align local and statewide objectives; and (vi) close the Commonwealth's support gap through pre-seed and seed stage investments, coordination of private investor networks, and shared due diligence research.

C. To achieve the objectives set forth in subsection B, there is created and constituted a political subdivision of the Commonwealth to be known as the Commonwealth of Virginia Innovation Partnership Authority. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired. Nothing in this article shall be construed to diminish or limit the powers and responsibilities of institutions of higher education or other educational or cultural institutions set forth in Title 23.1, including but not limited to such institution's authority to establish its own independent policies and technology transfer offices.

**§ 2.2-2352. Definitions.**

As used in this article, unless the context requires a different meaning:

"Authority" means the Commonwealth of Virginia Innovation Partnership Authority.

"Board" means the board of directors of the Authority.

"Founder" means a person who founds a company.

"Founder-friendly" means policies related to the transactional process of the development of technology, from research to commercialization, that are fair, transparent, and designed to enable the success of an inventor and business owner as the business grows.

"Index" means the Virginia Innovation Index.

**§ 2.2-2353. Board of directors; members; president.**

A. The Authority shall be governed by a board of directors consisting of nine voting members as follows: (i) the Secretary of Commerce and Trade, or his designee, (ii) five nonlegislative citizen

members appointed by the Governor, and (iii) three nonlegislative citizen members appointed by the Joint Rules Committee.

B. Of the nonlegislative citizen members, (i) two nonlegislative citizen members appointed by the Governor shall be from the investor community with experience as a partner in a venture capital fund with a minimum of \$35 million under management or experience qualifying as an accredited investor, as defined by the federal Securities and Exchange Commission, who have experience investing, as an individual or as part of an angel group, in 10 or more early stage companies; (ii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall be from the technology sector with experience (a) as a founder of a science-based or technology-based business and who have raised equity capital or (b) as a senior executive in a science or technology company with operations in Virginia and with annual revenues in excess of \$100 million; (iii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall have experience directly acquiring or commercializing intellectual property from a university or other research institution or experience working at an organization that has acquired or commercialized intellectual property from a university or other research institution; and (iv) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen member appointed by the Joint Rules Committee shall have experience in entrepreneurial development or entrepreneurial community and network development. In making the appointments, the Governor shall consider the geographic and demographic diversity of the Board.

C. 1. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Nonlegislative citizen members shall be citizens of the Commonwealth.

2. Ex officio members shall serve terms coincident with their terms of office.

D. Members of the Board shall receive such compensation for the performance of their duties as provided in § 2.2-2813. Members shall be reimbursed for all reasonable and necessary expenses incurred

in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

E. The Board shall elect a chairman from the nonlegislative citizen members of the Board, and the Secretary of Commerce and Trade shall serve as the vice-chairman. The Board shall elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Board may also form advisory committees, which may include representatives who are not members of the Board, to undertake more extensive study on issues before the Board.

F. A majority of the members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority. The Board shall meet at least quarterly or at the call of the chairman.

G. The Board shall appoint a president of the Authority, who shall not be a member of the Board who shall serve at the pleasure of the Board and carry out such powers and duties conferred upon him by the Board.

**§ 2.2-2354. Powers and duties of the President.**

The President shall employ or retain such agents or employees subordinate to the President as may be necessary to fulfill the duties of the Authority conferred upon the President, subject to the Board's approval. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. The President shall also exercise such of the powers and duties relating to the direction of the Commonwealth's research and commercialization efforts conferred upon the Authority as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The President shall also exercise and perform such other powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him by law.

**§ 2.2-2355. Powers of the Authority.**

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights and powers to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts. Nothing herein shall be construed to waive any applicable immunity enjoyed by the Authority.

2. Adopt, use, and alter at will a corporate seal.

3. Acquire, purchase, hold, use, lease, or otherwise dispose of any project and property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project and any property, real, personal, or mixed, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any project and any property, real, personal, or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board, and to sell, transfer, or convey any property, real, personal, or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board.

4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.

5. Adopt bylaws for the management and regulation of its affairs.

6. Establish and maintain an office in Richmond to serve as headquarters for the Authority. The Authority may also establish and maintain satellite offices within the Commonwealth.

7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the payment of the costs accomplishing its purposes set forth in § 2.2-2351, the payment of the principal of and interest on its obligations, and the fulfillment of the terms and provisions of any agreements made with the purchasers or holders of any such obligations.



213 8. Make and enter into all contracts and agreements necessary or incidental to the performance of  
214 its duties, the furtherance of its purposes, and the execution of its powers under this article, including  
215 agreements with any person or federal agency.

216 9. Employ, in its discretion, consultants, researchers, attorneys, architects, engineers, accountants,  
217 financial experts, investment bankers, superintendents, managers, and such other employees and agents  
218 as may be necessary, and to fix their compensation to be payable from funds made available to the  
219 Authority.

220 10. Receive and accept from any federal or private agency, foundation, corporation, association,  
221 or person grants to be expended in accomplishing the objectives of the Authority and receive and accept  
222 from the Commonwealth or any state, and any municipality, county, or other political subdivision thereof  
223 and from any other source, aid or contributions of either money, property, or other things of value, to be  
224 held, used, and applied only for the purposes for which such grants and contributions may be made.

225 11. Render advice and assistance, and provide services, to institutions of higher education and to  
226 other persons providing services or facilities for scientific and technological research or graduate  
227 education, provided that credit toward a degree, certificate, or diploma shall be granted only if such  
228 education is provided in conjunction with an institution of higher education authorized to operate in  
229 Virginia.

230 12. Develop, undertake, and provide programs, alone or in conjunction with any person or federal  
231 agency, for scientific and technological research, technology management, continuing education, and in-  
232 service training, provided that credit toward a degree, certificate, or diploma shall be granted only if such  
233 education is provided in conjunction with an institution of higher education authorized to operate in  
234 Virginia; foster the utilization of scientific and technological research information, discoveries, and data  
235 and to obtain patents, copyrights, and trademarks thereon; to encourage the coordination of the scientific  
236 and technological research efforts of public institutions and private industry and collect and maintain data  
237 on the development and utilization of scientific and technological research capabilities.

238 13. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security  
239 for all or any of the obligations of the Authority.

240 14. Receive, administer, and market any interest in patents, copyrights, and materials that are  
241 potentially patentable or copyrightable developed by or for state agencies, public institutions of higher  
242 education, and political subdivisions of the Commonwealth.

243 15. Develop the Index, pursuant to § 2.2-2360, to use to identify research areas worthy of  
244 Commonwealth investment in order to promote commercialization and economic development efforts in  
245 the Commonwealth.

246 16. Foster innovative partnerships and relationships among the Commonwealth, the  
247 Commonwealth's institutions of higher education, the private sector, federal labs, and not-for-profit  
248 organizations to improve research and development of commercialization efforts.

249 17. Receive and review annual reports from institutions and facilities regarding the progress of  
250 projects funded through the Authority. The Authority shall develop guidelines, methodologies, metrics,  
251 and criteria for the reports. The Authority shall aggregate the reports and submit an annual omnibus report  
252 on the status of research and development initiatives funded by the Authority in the Commonwealth to the  
253 Governor and the Chairmen of the House Committee on Appropriations, the House Committee on  
254 Communications, Technology and Innovation, the Senate Committee on Finance and Appropriations, and  
255 the Senate Committee on General Laws and Technology.

256 18. Administer grant, loan, and investment programs as authorized by this article. The Authority  
257 shall develop guidelines, subject to the approval of the Board, for the application, review, and award of  
258 grants, loans, and investments under the provisions of this article. These guidelines shall address, at a  
259 minimum, the application process and, where appropriate, shall give special emphasis to fostering  
260 collaboration and partnership among institutions of higher education and partnerships between institutions  
261 of higher education and business and industry.

262 19. Establish and administer, through any nonstock, nonprofit corporation established by the  
263 Authority, investment funds that may accept funds from any source, public or private, to support venture  
264 capital activities in the Commonwealth. The administration of any such investment fund shall be advised  
265 by the Advisory Committee on Investment created pursuant to § 2.2-2358.

20. Report on all investment activities of the Authority, and any entity established by the Authority, including returns on investments, to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on Communications, Technology and Innovation, the Senate Committee on Finance and Appropriations, and the Senate Committee on General Laws and Technology.

21. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any such terms and conditions and in any such manner as may be determined by the Board, provided that such separate legal entities shall be formed solely for the purpose of managing and administering any assets disposed of by the Authority. Such legal entities may include limited liability companies, limited partnerships, charitable foundations, real estate holding companies, investment holding companies, nonstock corporations, and benefit corporations. Any legal entities created by the Authority shall be operated under the governance of the Authority, and each shall provide quarterly performance reports to the Board. The articles of incorporation, partnership, or organization for such legal entities shall provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth shall be transferred to the Authority. Any legal entity created pursuant to this subdivision shall ensure that the economic benefits attributable to the income and property rights arising from any transaction in which the entity is involved are allocated based on the reasonable business judgment of the Board, with due account being given to the interest of the citizens of the Commonwealth and the needs of the entity. No legal entity shall be deemed to be a state or government agency, advisory agency, public body, or instrumentality of the Commonwealth. No director, officer, or employee of any such legal entity shall be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) solely by virtue in his capacity as a director, officer, or employee of such legal entity. Notwithstanding the foregoing, the Auditor of Public Accounts or his legally authorized representative shall annually audit the financial accounts of the Authority and any such legal entities.

22. Provide leadership for strategic initiatives that explore and shape programs designed to attract and grow innovation in the Commonwealth. Such leadership may include (i) seeking, or supporting others in seeking, federal grants, contracts, or other funding sources that advance the exploration functions of the

Authority's public purpose; (ii) assuming responsibility for forward-looking technology assessment and market vision around strategic initiatives and partnerships with federal and local governments; (iii) taking a leading role in defining, promoting, and implementing forward-looking technology market and industry development policies and processes that advance innovation and entrepreneurial activity and the assimilation of technology; (iv) contracting with federal and private entities to further innovation, commercialization, and entrepreneurship in the Commonwealth; and (v) conducting limited-scale commercialization pilot projects based on identified strategic initiatives to promote the industry or commercial development of specific technologies or interests.

23. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

**§ 2.2-2356. Designation of staff of not-for-profit entity.**

A. The Board may designate the president and staff of a not-for-profit entity established pursuant to this article to carry out the day-to-day operations and activities of the Authority and to perform such other duties as may be directed by the Board.

B. The president shall employ or retain such agents or employees subordinate to the president as may be necessary to fulfill the duties of the Authority and the not-for-profit entity designated herein. Employees shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

**§ 2.2-2357. Division of Entrepreneurial Ecosystems.**

A. Within the Authority shall be created a Division of Entrepreneurial Ecosystems (the Division) to support and promote technology-based entrepreneurial activities in the Commonwealth. The Division shall have the authority to (i) connect regional entrepreneurial support services; (ii) administer the Regional Innovation Fund (the Fund); (iii) coordinate marketing efforts between statewide and regional campaigns; (iv) establish entrepreneurs in residence to align local needs with state initiatives and funds; (v) compile, maintain, and promote an information portal of available public and private funding vehicles; and (vi) perform any other duties assigned by the Board. In performing such duties and responsibilities, the Division may (a) seek to build networks between regional entrepreneur support services, (b) facilitate

state-wide information sharing and exchange of ideas and best practices, (c) establish a portal to highlight the availability of regional entrepreneurial support services; (d) aggregate information from national, regional, and local sources and promote available public and private funding vehicles; and (e) undertake any other activities or provide any other services relative to the purpose of the Division.

B. The Division shall be advised by an Advisory Committee (Advisory Committee) on Entrepreneurial Ecosystems, to be appointed by the Board.

C. The Division may partner with the GO Virginia regional councils to offer resources and expertise related to entrepreneurial ecosystem development, to identify multiregion initiatives, and to facilitate communication regarding best practices across regional councils.

D. 1. There is hereby created a permanent fund to be known as the Regional Innovation Fund, to be administered by the Authority. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by authorization of the president, chairman, or vice-chairman of the Authority.

2. Moneys in the Fund shall be used for (i) competitive grants or loans to advance regional ecosystem development activities, (ii) support for enhanced capacity building projects, (iii) assistance with the creation and maintenance of appropriate infrastructure for the execution of innovation and startup programming, or (iv) technical assistance to startups in regional ecosystems. Moneys from the Fund shall be used for the purposes set forth in this subdivision that further the goals set forth in the Index.

3. Awards from the Fund shall be made by the Authority pursuant to guidelines, procedures, and criteria for the application for and award of grants or loans developed by the Division in consultation with the Advisory Committee and approved by the Board.

4. Any award from the Fund shall require matching funds at least equal to the award, provided, however, that the Authority shall have the authority to reduce the match requirement to no less than half of the grant upon a finding by the Authority of fiscal distress or an exceptional economic opportunity in a

region. Such matching funds may be from local, regional, federal, or private funds, but shall not include any state general funds, from whatever source.

**§ 2.2-2358. Division of Investment.**

A. Within the Authority shall be created a Division of Investment (the Division) to provide the Commonwealth with a competitive advantage through an array of funding mechanisms as provided in § 2.2-2355 related to direct and indirect venture capital investments. The Division may (i) make direct investments in business entities, (ii) make indirect investments in business entities through intermediary entities, whether formed by the Authority, or by another public or private entity or provide other financial support to encourage the formation of such intermediary entities or sidecar funds, (iii) validate, certify, and benchmark state tax incentive programs relating to the formation and growth of technology-based businesses, and (iv) perform any other duties or responsibilities assigned by the Board.

B. The Division shall partner with and support women-owned and minority-owned entrepreneurial entities through initiatives such as investor networks, accelerators, and incubators that promote and develop women and minority founders. Further, the Division shall consider status as a woman-owned or minority-owned business when making direct or indirect investments.

C. The Division shall work to support investments in the diverse economies and regions of the Commonwealth and shall engage members of rural and geographically underrepresented communities on advisory committees and in positions of decision making.

D. The Division shall be advised by an Advisory Committee on Investment (the Advisory Committee), to be appointed by the Board.

E. The Board, in consultation with the Division and the Advisory Committee, shall make biennial recommendations to the Governor regarding investment strategies.

**§ 2.2-2359. Division of Commercialization.**

A. Within the Authority shall be created a Division of Commercialization (the Division). The Division shall (i) promote research and development excellence in the Commonwealth; (ii) provide guidance and coordination, as deemed necessary, to existing efforts to support research in the Commonwealth with commercial potential; (iii) review and advise on the Index; (iv) administer the

Commonwealth Commercialization Fund (the Fund); and (v) perform any other duties or responsibilities assigned by the Board.

B. The Division shall be advised by an Advisory Committee on Commercialization (the Advisory Committee), to be appointed by the Board. The Advisory Committee shall include at least two representatives from public institutions of higher education in the Commonwealth.

C. The Division, in consultation with the Advisory Committee and subject to approval of the Board, shall develop guidelines, procedures, and criteria for the (i) application for grants and loans from the Fund; (ii) review, certification of scientific merits, and scoring or prioritization of applications for grants and loans from the Fund; and (iii) evaluation and recommendation to the Authority regarding the award of grants and loans from the Fund. The guidelines, procedures, and criteria shall include requirements that applicants demonstrate and the Authority consider:

1. Other grants, awards, loans, or funds awarded to the proposed program or project by the Commonwealth;

2. Other applications from the applicant for state grants, awards, loans, or funds currently pending at the time of the application;

3. The potential of the program or project for which a grant or loan is sought to (i) culminate in the commercialization of research; (ii) culminate in the formation or spin-off of technology-based companies; (iii) promote the build-out of scientific areas of expertise in science and technology; (iv) promote applied research and development in the areas of focus identified in the Index; (v) provide modern facilities or infrastructure for research and development; (vi) result in significant capital investment and job creation; or (vii) promote collaboration among the public institutions of higher education.

D. The Division may forward any application for a grant or loan from the Fund to an entity with recognized science and technology expertise for a review and certification of the scientific merits of the proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity.

E. 1. There is hereby created a permanent fund to be known as the Commonwealth Commercialization Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any

moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made upon authorization of the president, chairman, or vice-chairman of the Authority.

2. Awards from the Fund shall be made pursuant to the guidelines developed by the Division and approved by the Board.

3. Moneys in the Fund shall be used primarily for grants and loans to (i) foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation opportunities; (ii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; (iii) attract and effectively recruit and retain eminent researchers to enhance research superiority at public institutions of higher education; and (iv) encourage cooperation and collaboration among public institutions of higher education, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth. Grants and loans from the Fund may be made to applications that further the goals set forth in the Virginia Innovation Index.

F. The Division, in consultation with the State Council of Higher Education for Virginia and the Board, shall develop a system to evaluate and make recommendations regarding oversight of initiatives or Commonwealth centers of excellence related to technology-based or innovation-based economic development. Initiatives and Commonwealth centers of excellence to be evaluated pursuant to such system include (i) those that engage in commercialization of university research, (ii) technology-driven industries such as unmanned systems, (iii) advanced innovation concepts such as smart community technologies, and (iv) technology-based entrepreneurial activity. The system to evaluate and measure current and future initiatives shall be developed in alignment with the Index to assist the Governor and General Assembly in determining appropriate initiatives to pursue while eliminating the establishment of redundant activities, and shall be used to make recommendations to the Governor and the General Assembly regarding oversight of particular initiatives and Commonwealth centers of excellence.



G. Institutions of higher education may choose to coordinate with the Division and participate in projects using moneys granted or loaned from the Fund. The Division shall coordinate with participating institutions of higher education technology transfer officers and vice-presidents of research and innovation to advance founder-friendly policies throughout the Commonwealth. The results of such partnerships may include the establishment of a central Commonwealth-run technology transfer office and founder-friendly terms for optional use; the creation of an inventory library of statewide available technologies and intellectual property; the support and strengthening of existing technology transfer offices, with focus on the need for proof of concept funds and the development of commercialization advancement plans.

H. The Division may coordinate with public institutions of higher education, technology transfer offices, the State Council for Higher Education for Virginia, and the Office of the Attorney General to identify the allowable uses of buildings owned by public institutions of higher education for research-led spin-off companies and student commercial initiatives that originate at public institutions of higher education. The Division and its partners shall take official notice of the fact that no general prohibition exists in the acts of assembly or the Code that generally prohibits such use, but that limitations may exist on a case-by-case basis that may prohibit the use of a particular building, facility, or piece of equipment for the purposes set forth in this subsection.

**§ 2.2-2360. Virginia Innovation Index.**

A. The Authority shall develop, subject to approval by the Board, a Virginia Innovation Index, a comprehensive research and technology strategic plan for the Commonwealth to identify research areas worthy of Commonwealth economic development. The goal of the Index shall be to develop a cohesive and comprehensive framework through which to encourage collaboration between the Commonwealth's public institutions of higher education, private sector industries, and economic development entities in order to focus on the complete lifecycle of research, development, and commercialization. The framework shall serve as a means to (i) identify the Commonwealth's key industry sectors in which investments in technology should be made by the Commonwealth; (ii) identify basic and applied research opportunities in these sectors that exhibit commercial promise; (iii) encourage commercialization and economic development activities in the Commonwealth in these sectors; and (iv) help ensure that investments of

public funds in the Commonwealth in basic and applied research are made prudently in focused areas for projects with significant potential for commercialization and economic growth in the Commonwealth.

B. The Index shall be used to determine areas of focus for grants, loans, and investments by the Authority pursuant to this article.

C. In developing the Index, the Authority shall:

1. Consult with the chief research officers at public institutions of higher education in the Commonwealth regarding the strategic plan for each institution in order to identify common themes;

2. Consult with public institutions of higher education in the Commonwealth, the Virginia Economic Development Partnership, and any other entity deemed relevant to catalog the Commonwealth's assets in order to identify the areas of research and development in which the Commonwealth has a great likelihood of excelling in applied research and commercialization;

3. Make recommendations for the alignment of research and development and economic growth in the Commonwealth, identifying the industry sectors in which the Commonwealth should focus its research, development, investment, and economic development efforts;

4. Establish a process for maintaining an inventory of the Commonwealth's current research and development endeavors in both the public and private sectors that can be used to attract research and commercialization excellence in the Commonwealth;

5. Make recommendations to the Six-Year Capital Outlay Plan Advisory Committee established pursuant to § 2.2-1516 regarding capital construction needs at public institutions of higher education necessary to excel in basic and applied research in identified industry sectors;

6. Solicit feedback from public and private institutions of higher education in the Commonwealth; members of the National Academies of Sciences, Engineering and Medicine; members of the Virginia Academy of Science, Engineering and Medicine; federal research and development assets in the Commonwealth; regional technology councils in the Commonwealth; the Virginia Economic Development Partnership; the Virginia Growth and Opportunity Board; and the private sector; and

7. Consult with private industry and industry leaders to identify areas of research and development in which the Commonwealth has a great likelihood of excelling in applied research and commercialization.

D. The Authority shall review the Index and make recommendations regarding its update at least once every two years. Such recommended updates shall be submitted to the Board for review and approval.

E. The Authority shall submit a draft of the Index to the Governor and the Chairmen of the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and the Joint Commission on Technology and Science at least 30 days prior to the Board voting to approve the Index or any subsequent updates. Upon final approval, the Authority shall submit the approved Index, and any subsequent updates, to the Chairmen of the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and the Joint Commission on Technology and Science.

**§ 2.2-2361. Grants or loans of public or private funds.**

The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish, in whole or in part, any of the purposes of this article. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth.

**§ 2.2-2362. Moneys of Authority; examination of books by the Auditor of Public Accounts.**

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other order of the treasurer of the Authority or of other persons as the Authority may authorize to execute such warrants or orders. The Auditor of Public Accounts or his legally authorized representatives shall examine the accounts and books of the Authority.

**§ 2.2-2363. Exemption from taxes or assessments.**

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement

of their health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority, and shall at all times be free from state and local taxation. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

**§ 2.2-2364. Exemption of Authority from personnel and procurement procedures.**

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person

who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other

information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii)

franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the ~~Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§~~



32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or

other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by

694 the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided  
695 by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the  
696 performance of the duties of the Commission pursuant to § 3.2-3103.

697 In order for the information specified in this subdivision to be excluded from the provisions of this  
698 chapter, the applicant shall make a written request to the Commission:

699 a. Invoking such exclusion upon submission of the data or other materials for which protection  
700 from disclosure is sought;

701 b. Identifying with specificity the data, information or other materials for which protection is  
702 sought; and

703 c. Stating the reasons why protection is necessary.

704 The Commission shall determine whether the requested exclusion from disclosure is necessary to  
705 protect the trade secrets, financial information, or research-related information of the applicant. The  
706 Commission shall make a written determination of the nature and scope of the protection to be afforded  
707 by it under this subdivision.

708 24. a. Information held by the Commercial Space Flight Authority relating to rate structures or  
709 charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure  
710 of such information would adversely affect the financial interest or bargaining position of the Authority  
711 or a private entity providing the information to the Authority; or

712 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure  
713 of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the  
714 private entity, including balance sheets and financial statements, that are not generally available to the  
715 public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity  
716 and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

717 In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded  
718 from the provisions of this chapter, the private entity shall make a written request to the Authority:

719 (1) Invoking such exclusion upon submission of the data or other materials for which protection  
720 from disclosure is sought;

- (2) Identifying with specificity the data or other materials for which protection is sought; and  
(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and

748 c. Stating the reasons why protection is necessary.

749 28. Information relating to a grant-~~or~~, loan, or investment application, or accompanying a grant-~~or~~,  
750 loan, or investment application, submitted to the Commonwealth of Virginia Research Investment  
751 Committee Innovation Partnership Authority (the Authority) established pursuant to Article 8 (§ 23.1-  
752 3130 11 (§ 2.2-2351 et seq.) of Chapter 31 of Title 23.1 22, an advisory committee of the Authority, or  
753 any other entity designated by the Authority to review such applications, to the extent that such records  
754 would (i) reveal (a) trade secrets; (b) financial information of a party to a grant-~~or~~, loan, or investment  
755 application that is not a public body, including balance sheets and financial statements, that are not  
756 generally available to the public through regulatory disclosure or otherwise; or (c) research-related  
757 information produced or collected by a party to the application in the conduct of or as a result of study or  
758 research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such  
759 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the  
760 competitive position of a party to a grant-~~or~~, loan, or investment application; and memoranda, staff  
761 evaluations, or other information prepared by the ~~Committee~~ Authority or its staff, or a reviewing entity  
762 ~~pursuant to subsection D of § 23.1-3133~~ designated by the Authority, exclusively for the evaluation of  
763 grant-, ~~or~~ loan, or investment applications, including any scoring or prioritization documents prepared for  
764 and forwarded to the ~~Committee pursuant to subsection D of § 23.1-3133~~ Authority.

765 ~~In order for the information submitted by the applicant and specified in this subdivision to be~~  
766 ~~excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:~~

767 a. ~~Invoking such exclusion upon submission of the data or other materials for which protection~~  
768 ~~from disclosure is sought;~~

769 b. ~~Identifying with specificity the data, information, or other materials for which protection is~~  
770 ~~sought; and~~

771 c. ~~Stating the reasons why protection is necessary.~~

772 ~~The Virginia Research Investment Committee shall determine whether the requested exclusion~~  
773 ~~from disclosure is necessary to protect the trade secrets, financial information, or research-related~~

~~information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.~~

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.



854 "Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of  
855 policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those  
856 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

857 "Working papers" means those records prepared by or for a public official identified in this  
858 subdivision for his personal or deliberative use.

859 3. Information contained in library records that can be used to identify (i) both (a) any library  
860 patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any  
861 library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the  
862 parent, including a noncustodial parent, or guardian of such library patron.

863 4. Contract cost estimates prepared for the confidential use of the Department of Transportation in  
864 awarding contracts for construction or the purchase of goods or services, and records and automated  
865 systems prepared for the Department's Bid Analysis and Monitoring Program.

866 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,  
867 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by  
868 the political subdivision.

869 6. Information furnished by a member of the General Assembly to a meeting of a standing  
870 committee, special committee, or subcommittee of his house established solely for the purpose of  
871 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of  
872 formulating advisory opinions to members on standards of conduct, or both.

873 7. Customer account information of a public utility affiliated with a political subdivision of the  
874 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
875 service provided and the amount of money charged or paid for such utility service.

876 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development  
877 Authority concerning individuals who have applied for or received loans or other housing assistance or  
878 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by  
879 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the  
880 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and

housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors

908 of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College  
909 Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security  
910 or other ownership interest in an entity, where such security or ownership interest is not traded on a  
911 governmentally regulated securities exchange, if disclosure of such information would (i) reveal  
912 confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the  
913 board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a  
914 local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement  
915 system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise  
916 of confidentiality of the future value of such ownership interest or the future financial performance of the  
917 entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of  
918 by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
919 of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College  
920 Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information  
921 relating to the identity of any investment held, the amount invested, or the present value of such  
922 investment.

923 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or  
924 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority  
925 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

926 14. Information held by the Virginia Commonwealth University Health System Authority  
927 pertaining to any of the following: an individual's qualifications for or continued membership on its  
928 medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from  
929 third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use  
930 in awarding contracts for construction or the purchase of goods or services; information of a proprietary  
931 nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial  
932 statements not publicly available that may be filed with the Authority from third parties; the identity,  
933 accounts, or account status of any customer of the Authority; consulting or other reports paid for by the  
934 Authority to assist the Authority in connection with its strategic planning and goals; the determination of

935 marketing and operational strategies where disclosure of such strategies would be harmful to the  
936 competitive position of the Authority; and information of a proprietary nature produced or collected by or  
937 for employees of the Authority, other than the Authority's financial or administrative records, in the  
938 conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether  
939 sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when  
940 such information has not been publicly released, published, copyrighted, or patented. This exclusion shall  
941 also apply when such information is in the possession of Virginia Commonwealth University.

942 15. Information held by the Department of Environmental Quality, the State Water Control Board,  
943 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active  
944 federal environmental enforcement actions that are considered confidential under federal law and (ii)  
945 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such  
946 information shall be disclosed after a proposed sanction resulting from the investigation has been proposed  
947 to the director of the agency. This subdivision shall not be construed to prevent the disclosure of  
948 information related to inspection reports, notices of violation, and documents detailing the nature of any  
949 environmental contamination that may have occurred or similar documents.

950 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or  
951 travel itinerary, including vehicle identification data or vehicle enforcement system information; video or  
952 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit  
953 card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility  
954 use.

955 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax  
956 identification number, state sales tax number, home address and telephone number, personal and lottery  
957 banking account and transit numbers of a retailer, and financial information regarding the nonlottery  
958 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,  
959 hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10  
960 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing  
961 to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release

of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

1014 26. Information maintained by the Department of the Treasury or participants in the Local  
1015 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the  
1016 Department to establish accounts in accordance with § 2.2-4602.

1017 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident  
1018 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except  
1019 that access shall not be denied to the person who is the subject of the information.

1020 28. Information maintained in connection with fundraising activities by the Veterans Services  
1021 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone  
1022 number, social security number or other identification number appearing on a driver's license, or credit  
1023 card or bank account data of identifiable donors, except that access shall not be denied to the person who  
1024 is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the  
1025 disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the  
1026 identity of the donor, unless the donor has requested anonymity in connection with or as a condition of  
1027 making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from  
1028 disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the  
1029 performance of services or other work or (ii) the terms and conditions of such grants or contracts.

1030 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in  
1031 the training of state prosecutors or law-enforcement personnel, where such information is not otherwise  
1032 available to the public and the disclosure of such information would reveal confidential strategies,  
1033 methods, or procedures to be employed in law-enforcement activities or materials created for the  
1034 investigation and prosecution of a criminal case.

1035 30. Information provided to the Department of Aviation by other entities of the Commonwealth in  
1036 connection with the operation of aircraft where the information would not be subject to disclosure by the  
1037 entity providing the information. The entity providing the information to the Department of Aviation shall  
1038 identify the specific information to be protected and the applicable provision of this chapter that excludes  
1039 the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.



**1067 § 2.2-3711. Closed meetings authorized for certain limited purposes.**

**1068 A.** Public bodies may hold closed meetings only for the following purposes:

**1069 1.** Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
**1070** appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
**1071** officers, appointees, or employees of any public body; and evaluation of performance of departments or  
**1072** schools of public institutions of higher education where such evaluation will necessarily involve  
**1073** discussion of the performance of specific individuals. Any teacher shall be permitted to be present during  
**1074** a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the  
**1075** teacher and some student and the student involved in the matter is present, provided the teacher makes a  
**1076** written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision,  
**1077** however, shall be construed to authorize a closed meeting by a local governing body or an elected school  
**1078** board to discuss compensation matters that affect the membership of such body or board collectively.

**1079 2.** Discussion or consideration of admission or disciplinary matters or any other matters that would  
**1080** involve the disclosure of information contained in a scholastic record concerning any student of any public  
**1081** institution of higher education in the Commonwealth or any state school system. However, any such  
**1082** student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be  
**1083** permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if  
**1084** such student, parents, or guardians so request in writing and such request is submitted to the presiding  
**1085** officer of the appropriate board.

**1086 3.** Discussion or consideration of the acquisition of real property for a public purpose, or of the  
**1087** disposition of publicly held real property, where discussion in an open meeting would adversely affect the  
**1088** bargaining position or negotiating strategy of the public body.

**1089 4.** The protection of the privacy of individuals in personal matters not related to public business.

**1090 5.** Discussion concerning a prospective business or industry or the expansion of an existing  
**1091** business or industry where no previous announcement has been made of the business' or industry's interest  
**1092** in locating or expanding its facilities in the community.

1093 6. Discussion or consideration of the investment of public funds where competition or bargaining  
1094 is involved, where, if made public initially, the financial interest of the governmental unit would be  
1095 adversely affected.

1096 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to  
1097 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect  
1098 the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable  
1099 litigation" means litigation that has been specifically threatened or on which the public body or its legal  
1100 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this  
1101 subdivision shall be construed to permit the closure of a meeting merely because an attorney representing  
1102 the public body is in attendance or is consulted on a matter.

1103 8. Consultation with legal counsel employed or retained by a public body regarding specific legal  
1104 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be  
1105 construed to permit the closure of a meeting merely because an attorney representing the public body is  
1106 in attendance or is consulted on a matter.

1107 9. Discussion or consideration by governing boards of public institutions of higher education of  
1108 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or  
1109 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
1110 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
1111 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
1112 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
1113 (i) "foreign government" means any government other than the United States government or the  
1114 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
1115 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the  
1116 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
1117 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under  
1118 the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or  
1119 national of the United States or a trust territory or protectorate thereof.

1120 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the  
1121 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,  
1122 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private  
1123 sources.

1124 11. Discussion or consideration of honorary degrees or special awards.

1125 12. Discussion or consideration of tests, examinations, or other information used, administered, or  
1126 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

1127 13. Discussion, consideration, or review by the appropriate House or Senate committees of  
1128 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure  
1129 statement filed by the member, provided the member may request in writing that the committee meeting  
1130 not be conducted in a closed meeting.

1131 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or  
1132 to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing  
1133 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position  
1134 of the governing body or the establishment of the terms, conditions and provisions of the siting agreement,  
1135 or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

1136 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic  
1137 activity and estimating general and nongeneral fund revenues.

1138 16. Discussion or consideration of medical and mental health records subject to the exclusion in  
1139 subdivision 1 of § 2.2-3705.5.

1140 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
1141 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
1142 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
1143 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3  
1144 and subdivision 11 of § 2.2-3705.7.

1145 18. Those portions of meetings in which the Board of Corrections discusses or discloses the  
1146 identity of, or information tending to identify, any prisoner who (i) provides information about crimes or

1147 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the  
1148 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other  
1149 extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1150 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific  
1151 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement  
1152 or emergency service officials concerning actions taken to respond to such matters or a related threat to  
1153 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,  
1154 where discussion in an open meeting would jeopardize the safety of any person or the security of any  
1155 facility, building, structure, information technology system, or software program; or discussion of reports  
1156 or plans related to the security of any governmental facility, building or structure, or the safety of persons  
1157 using such facility, building or structure.

1158 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,  
1159 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of  
1160 trustees of a trust established by one or more local public bodies to invest funds for postemployment  
1161 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2,  
1162 or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board  
1163 of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or  
1164 disposition of a security or other ownership interest in an entity, where such security or ownership interest  
1165 is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i)  
1166 concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared  
1167 by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings  
1168 Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia  
1169 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or  
1170 the future financial performance of the entity, and (ii) would have an adverse effect on the value of the  
1171 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of  
1172 trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing

1173 in this subdivision shall be construed to prevent the disclosure of information relating to the identity of  
1174 any investment held, the amount invested or the present value of such investment.

1175 21. Those portions of meetings in which individual child death cases are discussed by the State  
1176 Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
1177 individual child death cases are discussed by a regional or local child fatality review team established  
1178 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
1179 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
1180 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
1181 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
1182 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
1183 meetings in which individual death cases are discussed by overdose fatality review teams established  
1184 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are  
1185 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

1186 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern  
1187 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any  
1188 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
1189 Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary,  
1190 business-related information pertaining to the operations of the University of Virginia Medical Center or  
1191 Eastern Virginia Medical School, as the case may be, including business development or marketing  
1192 strategies and activities with existing or future joint venturers, partners, or other parties with whom the  
1193 University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed,  
1194 or forms, any arrangement for the delivery of health care, if disclosure of such information would  
1195 adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as  
1196 the case may be.

1197 23. Discussion or consideration by the Virginia Commonwealth University Health System  
1198 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the  
1199 acquisition or disposition by the Authority of real property, equipment, or technology software or

1200 hardware and related goods or services, where disclosure would adversely affect the bargaining position  
1201 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities  
1202 of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing  
1203 or operational strategies plans of the Authority where disclosure of such strategies or plans would  
1204 adversely affect the competitive position of the Authority; and members of the Authority's medical and  
1205 teaching staffs and qualifications for appointments thereto.

1206 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee  
1207 within the Department of Health Professions to the extent such discussions identify any practitioner who  
1208 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1209 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
1210 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by  
1211 or on behalf of individuals who have requested information about, applied for, or entered into prepaid  
1212 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title  
1213 23.1 is discussed.

1214 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery  
1215 Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as  
1216 defined in § 56-484.12, related to the provision of wireless E-911 service.

1217 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
1218 Professional and Occupational Regulation, Department of Health Professions, or the Board of  
1219 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a  
1220 decision or meetings of health regulatory boards or conference committees of such boards to consider  
1221 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as  
1222 requested by either of the parties.

1223 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-  
1224 3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
1225 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
1226 public entity concerning such records.

1227 29. Discussion of the award of a public contract involving the expenditure of public funds,  
1228 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where  
1229 discussion in an open session would adversely affect the bargaining position or negotiating strategy of the  
1230 public body.

1231 30. Discussion or consideration of grant or loan application information subject to the exclusion  
1232 in subdivision 17 of § 2.2-3705.6 by ~~(i) the Commonwealth Health Research Board or (ii) the Innovation~~  
1233 ~~and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory~~  
1234 ~~Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.~~

1235 31. Discussion or consideration by the Commitment Review Committee of information subject to  
1236 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually  
1237 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1238 32. Discussion or consideration of confidential proprietary information and trade secrets developed  
1239 and held by a local public body providing certain telecommunication services or cable television services  
1240 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
1241 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et  
1242 seq.).

1243 33. Discussion or consideration by a local authority created in accordance with the Virginia  
1244 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade  
1245 secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1246 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting  
1247 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

1248 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory  
1249 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal  
1250 investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

1251 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
1252 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and  
1253 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and

1254 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or  
1255 recover scholarship awards.

1256 37. Discussion or consideration by the Virginia Port Authority of information subject to the  
1257 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the  
1258 Virginia Port Authority.

1259 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
1260 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
1261 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
1262 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory  
1263 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of  
1264 § 2.2-3705.7.

1265 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-  
1266 3705.6 related to economic development.

1267 40. Discussion or consideration by the Board of Education of information relating to the denial,  
1268 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1269 41. Those portions of meetings of the Virginia Military Advisory Council or any commission  
1270 created by executive order for the purpose of studying and making recommendations regarding preventing  
1271 closure or realignment of federal military and national security installations and facilities located in  
1272 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
1273 appointed by a local governing body, during which there is discussion of information subject to the  
1274 exclusion in subdivision 8 of § 2.2-3705.2.

1275 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
1276 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
1277 information of donors.

1278 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
1279 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information  
1280 contained in grant applications.



1281 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority  
1282 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or  
1283 charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain  
1284 proprietary information of a private entity provided to the Authority.

1285 45. Discussion or consideration of personal and proprietary information related to the resource  
1286 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)  
1287 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records  
1288 that contain information that has been certified for release by the person who is the subject of the  
1289 information or transformed into a statistical or aggregate form that does not allow identification of the  
1290 person who supplied, or is the subject of, the information.

1291 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage  
1292 Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to  
1293 investigations of applicants for licenses and permits and of licensees and permittees.

1294 47. Discussion or consideration of grant ~~or~~, loan, or investment application records subject to the  
1295 exclusion in subdivision 28 of § 2.2-3705.6 ~~related to the submission of an application for an award from~~  
1296 ~~the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title~~  
1297 ~~23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-~~  
1298 ~~3133 or by the Virginia Research Investment Committee for a grant, loan, or investment pursuant to~~  
1299 Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

1300 48. Discussion or development of grant proposals by a regional council established pursuant to  
1301 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and  
1302 Opportunity Board.

1303 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response  
1304 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses  
1305 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)  
1306 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to  
1307 §§ 15.2-1627.5 and 63.2-1605.

1308 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
1309 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the  
1310 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to  
1311 subdivision 33 of § 2.2-3705.7.

1312 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
1313 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
1314 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
1315 § 60.2-114.

1316 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership  
1317 Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the  
1318 Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1319 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
1320 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
1321 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or  
1322 motion that shall have its substance reasonably identified in the open meeting.

1323 C. Public officers improperly selected due to the failure of the public body to comply with the  
1324 other provisions of this section shall be de facto officers and, as such, their official actions are valid until  
1325 they obtain notice of the legal defect in their election.

1326 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
1327 more public bodies, or their representatives, but these conferences shall be subject to the same procedures  
1328 for holding closed meetings as are applicable to any other public body.

1329 E. This section shall not be construed to (i) require the disclosure of any contract between the  
1330 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§  
1331 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to  
1332 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered  
1333 to issue industrial revenue bonds by general or special law, to identify a business or industry to which

subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 23.1-203. Duties of Council.**

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly at least once every six years. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution of higher education, whether relating to academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain a function of the individual public institutions of higher education.

3. Study any proposed escalation of any public institution of higher education to a degree-granting level higher than that level to which it is presently restricted and submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such

1361 proposed escalation until the Council's report and recommendation have been submitted to the General  
1362 Assembly and the General Assembly approves the institution's proposal.

1363 4. Review and approve or disapprove all enrollment projections proposed by each public institution  
1364 of higher education. The Council's projections shall be organized numerically by level of enrollment and  
1365 shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop  
1366 estimates of the number of degrees to be awarded by each public institution of higher education and  
1367 include those estimates in its reports of enrollment projections. The student admissions policies for such  
1368 institutions and their specific programs shall remain the sole responsibility of the individual governing  
1369 boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies  
1370 with comprehensive community colleges as required by § 23.1-907.

1371 5. Review and approve or disapprove all new undergraduate or graduate academic programs that  
1372 any public institution of higher education proposes.

1373 6. Review and require the discontinuance of any undergraduate or graduate academic program that  
1374 is presently offered by any public institution of higher education when the Council determines that such  
1375 academic program is (i) nonproductive in terms of the number of degrees granted, the number of students  
1376 served by the program, the program's effectiveness, and budgetary considerations or (ii) supported by state  
1377 funds and unnecessarily duplicative of academic programs offered at other public institutions of higher  
1378 education. The Council shall make a report to the Governor and the General Assembly with respect to the  
1379 discontinuance of any such academic program. No such discontinuance shall become effective until 30  
1380 days after the adjournment of the session of the General Assembly next following the filing of such report.

1381 7. Review and approve or disapprove the establishment of any department, school, college, branch,  
1382 division, or extension of any public institution of higher education that such institution proposes to  
1383 establish, whether located on or off the main campus of such institution. If any organizational change is  
1384 determined by the Council to be proposed solely for the purpose of internal management and the  
1385 institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing  
1386 in this subdivision shall be construed to authorize the Council to disapprove the establishment of any such  
1387 department, school, college, branch, division, or extension established by the General Assembly.

1388 8. Review the proposed closure of any academic program in a high demand or critical shortage  
1389 area, as defined by the Council, by any public institution of higher education and assist in the development  
1390 of an orderly closure plan, when needed.

1391 9. Develop a uniform, comprehensive data information system designed to gather all information  
1392 necessary to the performance of the Council's duties. The system shall include information on admissions,  
1393 enrollment, self-identified students with documented disabilities, personnel, programs, financing, space  
1394 inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the  
1395 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia  
1396 Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting  
1397 solely or in partnership with the Virginia Department of Education or the Virginia Employment  
1398 Commission, may contract with private entities to create de-identified student records in which all  
1399 personally identifiable information has been removed for the purpose of assessing the performance of  
1400 institutions and specific programs relative to the workforce needs of the Commonwealth.

1401 10. In cooperation with public institutions of higher education, develop guidelines for the  
1402 assessment of student achievement. Each such institution shall use an approved program that complies  
1403 with the guidelines of the Council and is consistent with the institution's mission and educational  
1404 objectives in the development of such assessment. The Council shall report each institution's assessment  
1405 of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher  
1406 education.

1407 11. In cooperation with the appropriate state financial and accounting officials, develop and  
1408 establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for public  
1409 institutions of higher education.

1410 12. Review biennially and approve or disapprove all changes in the inventory of educational and  
1411 general space that any public institution of higher education proposes and report such approvals and  
1412 disapprovals to the Governor and the General Assembly. No such change shall become effective until 30  
1413 days after the adjournment of the session of the General Assembly next following the filing of such report.

1414 13. Visit and study the operations of each public institution of higher education at such times as  
1415 the Council deems appropriate and conduct such other studies in the field of higher education as the  
1416 Council deems appropriate or as may be requested by the Governor or the General Assembly.

1417 14. Provide advisory services to each accredited nonprofit private institution of higher education  
1418 whose primary purpose is to provide collegiate or graduate education and not to provide religious training  
1419 or theological education on academic, administrative, financial, and space utilization matters. The Council  
1420 may review and advise on joint activities, including contracts for services between public institutions of  
1421 higher education and such private institutions of higher education or between such private institutions of  
1422 higher education and any agency or political subdivision of the Commonwealth.

1423 15. Adopt such policies and regulations as the Council deems necessary to implement its duties  
1424 established by state law. Each public institution of higher education shall comply with such policies and  
1425 regulations.

1426 16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and  
1427 Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's  
1428 academic and disciplinary record to a student's parent.

1429 17. Require each institution of higher education formed, chartered, or established in the  
1430 Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of  
1431 institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure  
1432 the preservation of student transcripts by binding agreement with another institution of higher education  
1433 with which it is not corporately connected or in such other way as the Council may authorize by regulation.  
1434 In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the  
1435 Council, through its director, may take such action as is necessary to secure and preserve the student  
1436 transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in  
1437 this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize  
1438 disclosure of student records except as may otherwise be authorized by law.

1439 18. Require the development and submission of articulation, dual admissions, and guaranteed  
1440 admissions agreements between associate-degree-granting and baccalaureate public institutions of higher  
1441 education.

1442 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint  
1443 Subcommittee Studying Higher Education Funding Policies for each public institution of higher  
1444 education.

1445 20. Develop, pursuant to the provisions of § 23.1-907, guidelines for articulation, dual admissions,  
1446 and guaranteed admissions agreements, including guidelines related to a one-year Uniform Certificate of  
1447 General Studies Program and a one-semester Passport Program to be offered at each comprehensive  
1448 community college. The guidelines developed pursuant to this subdivision shall be developed in  
1449 consultation with all public institutions of higher education in the Commonwealth, the Department of  
1450 Education, and the Virginia Association of School Superintendents and shall ensure standardization,  
1451 quality, and transparency in the implementation of the programs and agreements. At the discretion of the  
1452 Council, private institutions of higher education eligible for tuition assistance grants may also be  
1453 consulted.

1454 21. Cooperate with the Board of Education in matters of interest to both public elementary and  
1455 secondary schools and public institutions of higher education, particularly in connection with coordination  
1456 of the college admission requirements, coordination of teacher training programs with the public school  
1457 programs, and the Board of Education's Six-Year Educational Technology Plan for Virginia. The Council  
1458 shall encourage public institutions of higher education to design programs that include the skills necessary  
1459 for the successful implementation of such Plan.

1460 22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship  
1461 Committee in the implementation and administration of the Brown v. Board of Education Scholarship  
1462 Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

1463 23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments,  
1464 institutions, and agencies in carrying out its duties.

1465 24. Serve as the coordinating council for public institutions of higher education.

1466 25. Serve as the planning and coordinating agency for all postsecondary educational programs for  
1467 all health professions and occupations and make recommendations, including those relating to financing,  
1468 for providing adequate and coordinated educational programs to produce an appropriate supply of properly  
1469 trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the  
1470 requirements of this subdivision. All state departments and agencies shall cooperate with the Council in  
1471 the execution of its responsibilities under this subdivision.

1472 26. Carry out such duties as the Governor may assign to it in response to agency designations  
1473 requested by the federal government.

1474 27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each  
1475 public institution of higher education in carrying out its duties.

1476 28. Insofar as practicable, seek the assistance and advice of each public institution of higher  
1477 education in fulfilling its duties and responsibilities.

1478 29. ~~Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the~~  
1479 ~~provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval,~~  
1480 ~~and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia~~  
1481 ~~Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.~~

1482 30. ~~Administer the Virginia Longitudinal Data System as a multiagency partnership for the~~  
1483 ~~purposes of developing educational, health, social service, and employment outcome data; improving the~~  
1484 ~~efficacy of state services; and aiding decision making.~~

1485 **2. That Article 3 (§§ 2.2-2218 through 2.2-2233.1) of Chapter 22 of Title 2.2, Article 8 (§§ 23.1-3130**  
1486 **through 23.1-3134) of Chapter 31 of Title 23.1, and § 51.1-124.38 of the Code of Virginia are**  
1487 **repealed.**

1488 **3. That the initial appointment of nonlegislative citizen members to the Commonwealth of Virginia**  
1489 **Innovation Partnership Authority made in accordance with the provisions of this act shall be**  
1490 **staggered as follows: (i) one nonlegislative citizen member appointed by the Governor and one**  
1491 **nonlegislative citizen member appointed by the Joint Rules Committee shall be appointed for a term**  
1492 **of one year; (ii) one nonlegislative citizen member appointed by the Governor and one nonlegislative**



1493 citizen member appointed by the Joint Rules Committee shall be appointed for a term of two years;  
1494 (iii) one nonlegislative citizen member appointed by the Governor and one nonlegislative citizen  
1495 member appointed by the Joint Rules Committee shall be appointed for a term of three years; and  
1496 (iv) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of  
1497 four years. Any member appointed to an initial term of less than four years shall be eligible to serve  
1498 two additional full four-year-terms.

1499 4. That any unobligated funds remaining in the Commonwealth Research Commercialization Fund  
1500 or the Virginia Research Investment Fund upon the effective date of this act shall be transferred to  
1501 the Commonwealth Commercialization Fund. Any funds remaining in the Commonwealth Growth  
1502 Acceleration Program Fund upon the effective date of this act shall be transferred to the  
1503 Commonwealth of Virginia Innovation Partnership Authority.

1504 5. That as of the effective date of this act, the Commonwealth of Virginia Innovation Partnership  
1505 Authority (the Authority) shall be deemed the successor in interest to the Virginia Research  
1506 Investment Committee and the Innovation and Entrepreneurship Investment Authority. Without  
1507 limiting the foregoing, all right, title, and interest in and to any real or tangible personal property  
1508 vested in the Virginia Research Investment Committee or the Innovation and Entrepreneurship  
1509 Investment Authority as of the effective date of this act shall be transferred to and taken as standing  
1510 in the name of the Authority.

1511 6. That the Commonwealth of Virginia Innovation Partnership Authority (the Authority) shall be  
1512 the successor in interest to any grants, loans, or funds currently administered by the Innovation and  
1513 Entrepreneurship Investment Authority, any entity controlled by the Innovation and  
1514 Entrepreneurship Investment Authority, or the Virginia Research Investment Committee. All  
1515 obligations, commitments, and contracts related to such grants, loans, or funds in place on June 30,  
1516 2020, shall remain valid obligations of the Authority.

1517 7. That the Center for Innovative Technology, as it exists on June 30, 2020, shall continue as a  
1518 nonprofit, nonstock corporation of the Commonwealth of Virginia Innovation Partnership  
1519 Authority (the Authority) pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22 of Title 2.2 of the

1520 Code of Virginia, as created by this act. The Center for Innovative Technology shall continue to  
1521 administer all programs currently in operation on June 30, 2020, unless otherwise provided by the  
1522 law. The Center for Innovative Technology shall continue to administer, monitor, and evaluate the  
1523 award of grants, loans, or investments prior to July 1, 2020, from the Commonwealth Research  
1524 Commercialization Fund and the Growth Accelerator Program Fund, and begin administration,  
1525 monitoring, and evaluation of the award of grants or loans prior to July 1, 2020 from the Virginia  
1526 Research Investment Fund, including the continuing oversight of reporting by grant, loan, and  
1527 investment recipients for a period of five years following the award of such grants, loans, or  
1528 investments, and the initiation of clawback proceedings when necessary related to any such grants,  
1529 loans, or investments. The Authority shall rename the Center for Innovative Technology no later  
1530 than July 1, 2021.

1531 8. That the provisions of this act repealing §§ 2.2-2220 and 23.1-3132 of the Code of Virginia shall  
1532 become effective January 1, 2021. The Board of Directors of the Innovation and Entrepreneurship  
1533 Investment Authority and the Virginia Research Investment Committee shall assist in the transition  
1534 of its responsibilities to the Commonwealth of Virginia Innovative Partnership Authority no later  
1535 than January 1, 2021.

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